

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FILE

OFFICE OF
MANAGING DIRECTOR

June 6, 2005

Jeffrey L. Timmons
Jeffrey L. Timmons, P.C.
Counsel for KM Television
of Jackson, L.L.C.
3235 Satellite Boulevard
Building 400, Ste. 300
Duluth, Georgia 30096-8688

Re: KM Television of Jackson, L.L.C.
Request for Waiver of FY 2004
Regulatory Fees
Fee Control No. 0408198835326015

Dear Mr. Timmons:

This responds to your August 17, 2004 letter requesting waiver or reduction of the regulatory fee for fiscal year (FY) 2004 for KM Television of Jackson, L.L.C. (KM Television), licensee of television station KBEO(TV), Jackson, Wyoming. In support of fee reduction, you assert that KBEO was assessed a fee of \$29,175, due for stations in DMA markets 26-50, but actually ranks in DMA 165, and should have been assessed a fee of \$4,050, due for stations in "Remaining Markets." Alternatively, you request a full waiver on grounds of financial hardship. Our records show that KM Television has paid \$4,050 in FY 2004 regulatory fees for KBEO.

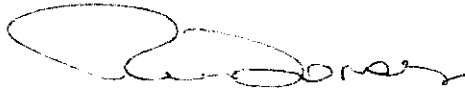
In support of your request for a full waiver based on financial hardship, you attach a summary of revenues and expenses, and a summary of assets and liabilities, for KM Television for calendar year 2003. You state that KBEO is a new station that began broadcasting only in April 2001, has not been able to realistically market or promote the station or sell advertising, and has generated virtually no revenue. Finally, you state that KM Television required a loan of \$82,505 from its owner to cover its 2003 operating expenses, and has made no payments to the owner or to any other principal since the station was constructed and began operating.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

Our review of the financial documentation you submitted indicates that KM Television had expenses of over \$110,000 in 2003 without corresponding income from revenues. Thus, the licensee experienced a financial deficit in 2003 without regard to any deduction for depreciation or payments to any principal or officer of the station. Therefore, your request for a waiver of the regulatory fee for FY 2004 is granted in full.¹ Accordingly, we also grant KM Television a refund of the \$4,050 that KM Television paid in connection with the FY 2004 regulatory fee. This waiver, however, is limited to the FY 2004 regulatory fee. If KM Television continues to experience financial hardship, you may request waiver of the fees for succeeding years only if supported by appropriate documentation.

A check made payable to the maker of the original check and drawn in the amount of \$4,050, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivable Operations Group at (202) 418-1995.

Sincerely,



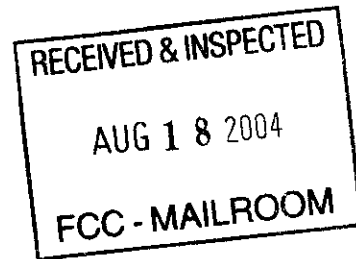
✶ Mark A. Reger
Chief Financial Officer

¹ In light of this result, it is unnecessary to address your "Remaining Markets" argument for fee reduction.

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ORIGINAL

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August 17, 2004

VIA FEDERAL EXPRESS

Office of the Managing Director
Federal Communications Commission
445 12th Street, S.W., Room 1-A625
Washington, D.C. 20554
Attn: Regulatory Fee Waiver/Reduction Request

RE: KM Television of Jackson, L.L.C.
Television Station KBEO(TV), Jackson, Wyoming

Dear FCC:

KM Television of Jackson, L.L.C. ("KM"), licensee of full power commercial television station KBEO(TV), Jackson, Wyoming (Facility ID No. 35103, "KBEO"), by its counsel, and pursuant to the Commission's Regulatory Fees Fact Sheet, Waivers, Reductions and Deferments of Regulatory Fees (dated July 2004, the "Waiver Fact Sheet"), respectfully requests the waiver of, or in the alternative, an adjustment or reduction in, the annual regulatory fee to be paid by KM for KBEO for fiscal year 2004. The Waiver Fact Sheet states that the Commission will consider the waiver or reduction of annual regulatory fees in extraordinary and compelling circumstances, upon a showing that such a waiver or reduction would serve the public interest. For the reasons stated herein, KM also respectfully requests that the Commission defer payment of the regulatory fee until the Commission acts upon this request for waiver; however, KM is timely paying (i.e., by August 19, 2004) the reduced regulatory fee of \$4,050 proposed herein.

KM completed construction and first put KBEO on the air as a new full power commercial television station in April 2001. Since Jackson is located in Teton County, Wyoming, Jackson and Teton County are currently assigned to the Idaho Falls - Pocatello, Idaho Designated Market Area ("DMA"), which ranks as DMA No. 165, see 2003 *Television Yearbook* at 91 ("2003 Yearbook"), the regulatory fee for KBEO should be only \$4,050. See Regulatory Fees Fact Sheet, What You Owe - Media Services Licensees for FY 2004 at 3 (\$4,050 regulatory fee for commercial VHF stations in "Remaining Markets", i.e., DMAs over 100)(the "Media Services Fact Sheet"). KM notes that the postcard mailed to KM indicated the regulatory fee due would be \$29,175, the amount due from commercial VHF stations in DMA Markets 26-50, this amount is in error; the error is likely due to the fact that several years ago, Teton County previously was assigned to the Salt Lake City, Utah DMA, DMA No. 36.

Assessing KBEO with the \$29,175 annual regulatory fee due for a DMA 26-50 station does not reflect the current DMA assignment for KBEO, Jackson or Teton County, nor would it reflect the realities of KBEO's service area, market and economic situation. As a result, the regulatory fee should be adjusted for fiscal year 2004 to correctly reflect that KBEO is in DMA 166, if not waived completely. KBEO is predicted to serve a population of only about 11,371 persons (1990 U.S. Census) and less than 4,000 households within its predicted Grade B contour,¹ which is only a small fraction (less than 4%) as compared to the 108,000 households in KBEO's Idaho Falls - Pocatello DMA (and only about 0.005% of the 769,000 households in the Salt Lake City DMA, on which a fee of \$29,175 was based). See 2003 Yearbook at 91 and 165. Jackson itself has a current (2000 U.S. Census) population of only 8,647 persons.

Even assessing KBEO the \$4,050 fee due from a DMA No. 166 station would ignore the facts and market realities faced by KM and KBEO, and would harm the service that may be offered by KBEO, and would also impose a financial hardship on KM; therefore, the regulatory fee should be waived completely, and KM should also be granted a deferment from paying the full fee that otherwise would be due pending the outcome of this waiver request. Attached hereto as Exhibit A are an unaudited Statement of Revenues & Expenses (or "profit and loss" statement, the "P&L") for KM for calendar year 2003 (which is also KM's fiscal year, and is the most recent full year for which financial statements are available for KM) and a Statement of Assets, Liabilities & Equity (or "Balance Sheet") as of December 31, 2003 for KM, certified as accurate by an officer of KM. The P&L reflects that KM suffered a loss of over \$110,000 on KBEO in 2003, with almost no revenues generated by the station.

The poor financial condition of KM and KBEO reflects that the station is a new station that just commenced broadcasting in April 2001; was able to secure and commence broadcasting the America One Network programming (which as a fringe network has yet to generate any advertising revenue for the station); and that due to the relatively weak signal and programming, the station has not been able to realistically market or promote the station or sell advertising. KM was able to continue to operate KBEO in 2003 only by KM's principal and 100% owner, Mrs. Myoung Hwa Bae, loaning \$82,505 to KM during 2003 to cover its operating expenses. No payments have been made by KM or KBEO to Mrs. Bae or to any other principal or owner of KM or KBEO, since the station was constructed and has been operating.

In short, KM's current financial hardship in operating KBEO would make it unduly burdensome for KM to pay the \$4,050 regulatory fee that would be due from a DMA 166 station (much less the \$29,175 fee due from a DMA Market 26-50 station), and therefore the regulatory fee for 2004 for KBEO should be waived.

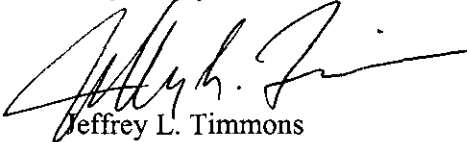
Accordingly, for the reasons stated herein, KM respectfully requests that the Commission correct the annual regulatory fee due from KM for KBEO for fiscal year 2004 to the \$4,050 due from a DMA 166 station, or waive the fee entirely. KM also requests that the Commission defer the deadline by which KM must pay such annual regulatory fee, based on the financial hardship and

¹ See, e.g., File No. BMPCT-19991004ABI, Statement Supporting Amendment of Application at 3 (as amended June 8, 2000).

reduction of service factors demonstrated herein; however, KM is timely paying its proposed reduced fee of \$4,050 by the August 19, 2004 payment deadline.

Please date-stamp the enclosed additional "FILE" copy of this filing and return it the undersigned in the enclosed self-addressed stamped envelope. Any questions regarding this filing and the requests made herein may be directed to the undersigned counsel for KM.

Very truly yours,



Jeffrey L. Timmons

Attachment

cc: Mrs. Myoung Hwa Bae